THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.27872 OF 2005

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Dated: 29-12-2005

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Between

M/s. 9 Gems Bar & Restaurant, 1-1-147/1,

3rd Floor, S.D. Road, Secunderabad, rep. by

its Partner, Mr. S. Ashok Kumar, S/o. Bhujanga

Rao, R/o. Hyderabad.

...PETITIONER

AND

The Commissioner of Police,

Hyderabad City, Basheerbagh,

Hyderabad and others.

...RESPONDENTS

ORDER:

This writ petition is filed to declare the action of the respondents in interfering and preventing the petitioners from running Bar and Restaurant in providing entertainment by way of live band/Orchestra with male and female singers in the petitioner's premises, as illegal and arbitrary.

Learned Counsel for the petitioner submits that the petitioner - Bar and Restaurant obtained licence from the Excise authorities to vend liquor in retail in the Bar in accordance with the provisions of the A.P. Excise Act and Rules and renewed the licence from time to time.

Apart from the sale of liquor, the petitioner also serves food.

The learned counsel further submits that petitioner – bar and restaurant being the public place of amusement, the petitioner is required to take licence from the Commissioner of Police, Hyderabad; when the petitioner applied for an amusement licence he obtained licence for establishment of a public entertainment (category II) on 26.07.2004 vide licence No.61 of 2004 in proceedings No.L&O/A4/415/2004 and the said licence was subsequently renewed. The learned counsel further submits that the said licence granted for establishment of public place of entertainment subject to certain special conditions permitting the petitioner to transact the liquor business up to 12.00 midnight daily subject to compliance with conditions mention in the licence. The relevant condition No.12 goes to show that the licence shall not make use of the loud speaker or radio except under the special circumstances in such public places of halting which is situated on the joint of four roads, three roads or cross roads and which has no footpaths in front of it. As per condition No.11 no person, who has established a public place of halting shall use the loud speaker in the public place halting during the other timings than those which have been permitted by the Commissioner of Police, Hyderabad city. It is not known whether any permission has been given to the petitioner either to have loud speakers or live band/Orchestra to be played with men and women. The learned counsel for the petitioner further submits that a batch of writ petitions has been disposed of on 09-11-2005 directing the first respondent to consider and pass appropriate orders on the representations made by the petitioners therein. As the respondents have so far not complied with the orders, the writ petitioners preferred a batch of writ appeals which were disposed of by a Division Bench of this Court, on 23.12.2005, directing the respondents to pass appropriate orders on the representations of the applicants and the applicants were allowed to carry on their activities in accordance with the licences granted and that if the appellants feel aggrieved by the orders which may be passed by the first respondent, then they shall be free to avail appropriate legal remedy.

Having regard to the facts and circumstances of the case, and following the order of the Division Bench of this Court, the writ petition is disposed of directing the first respondent to consider and pass appropriate orders on the representations made by the petitioner allowing to have live band/Orchestra in its Bar and Restaurant with male and female singers in accordance with the licence issued to it. Further, the respondents shall also not interfere with the activities of the petitioner, if the petitioner uses live band/Orchestra. However, if other activities are carried out in the Bar and Restaurant, the authorities concerned shall be

free to take appropriate action in accordance with law. If the petitioner feels aggrieved by the orders, which may be passed by the first respondent, then the petitioner shall be free to avail appropriate legal remedy.

With the direction indicated above, the writ petition is disposed of in terms of the Judgment of the Division Bench in a batch of writ appeals. No costs.

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V. ESWARAIAH, J

December 29, 2005

DSK